



Docket No.: 7989.011.00  
(PATENT)

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

In re Patent Application of:  
Byeong Yong LEE et al.

Customer No.: 30827

Application No.: 10/653,176

Confirmation No.: 3030

Filed: September 3, 2003

Art Unit: 3742

For: TOASTER WITH MICROWAVE OVEN AND  
METHOD FOR OPERATING THE SAME

Examiner: Philip H. Leung

MS AF  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

**Petition Under 37 CFR 1.181 to Withdraw Premature Final Rejection**

Applicant respectfully petitions the Director to withdraw the finality of the rejection in the Office Action dated May 9, 2005. (See MPEP 706.07(c) and (d)).

In the Non-Final Office Action dated October 18, 2004, the Examiner rejected claims 1-10 under 35 U.S.C. § 103(a) as being unpatentable over the Admitted Prior Art in Fig. 2 ("APA") in view of U.S. Patent No. 5,802,957 to Wanat et al. ("Wanat") and U.S. Patent No. 6,123,012 to Hardin et al. ("Hardin"). Claim 1 is the only independent claim considered on the merits.

In the Amendment filed February 15, 2005, the Applicants amended claim 1 as follows:

1. (Currently Amended) A toaster ~~com~~ with microwave oven having a heater for toasting bread, comprising:
  - a first key input part for selecting a function of the microwave oven;
  - a second key input part for selecting a function of the toaster;
  - a memory ~~for storing~~ configured to store a voltage level ~~[[to]]~~ of a heater according to the function of the toaster ~~the~~ a user selects;

a temperature sensor for sensing an inside temperature of the toaster; and  
a microcomputer ~~for controlling~~ configured to control a toasting time period according to a kind and a toasting level of bread the user selects, and an inside temperature of the toaster, and controlling the microwave oven according to a command received through the first key input part.

In the Remarks, the Applicants noted that none of the prior art references disclosed “a memory configured to store a voltage level of a heater.” It is noted that this feature was clearly cited in the originally filed claim 1, and that this feature and claim as a whole were only slightly amended.

The Final Office Action dated May 9, 2005, the Examiner rejected claims 1-10 under 35 U.S.C. § 103(a) as being unpatentable over the APA in view of U.S. Patent No. 5,126,536 to Devlin (“Devlin”) and further in view of Wanat and Hardin. Devlin was a newly cited reference. The Examiner states: “Devlin shows that it is well known in the art of electrical toasters to set the degree of toasting by adjusting the voltage level of the resistance heaters...”. The Examiner also states that the new ground of rejection was necessitated by the Applicants’ amendment.

Reconsideration is respectfully requested. The Examiner’s new grounds of rejection could not have been necessitated by the Applicant’s amendment to claim 1. Claim 1 was only slightly amendment, and no new features were added, particularly not the features cited by the Examiner as being taught by Devlin. As such, the amendments by the Applicants could not have necessitated the new grounds of rejection.

Accordingly, the finality of the rejection was premature and should be withdrawn.

If for any reason the Examiner believes a conversation with the Applicant’s representative would facilitate the prosecution of this application, the Examiner is encouraged to

contact the undersigned attorney at (202) 496-7500. All correspondence should continue to be sent to the below-listed address.

No fees are required for this Petition. However, if the Patent Office deems that a fee is necessary, authorization is hereby granted to charge any required fee to Deposit Account No. 50-0911.

Dated:

Respectfully submitted,

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